

Panaji, 11th July, 1997 (Ashada 20, 1919)

SERIES I No. 15

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/B/1754/1997

The following Bill which was introduced in the Legislative Assembly of Goa on 10-7-97 is hereby published for general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

Panaji, 11th July, 1997.

THE GOA RIGHT TO INFORMATION BILL, 1997

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THE GOA RIGHT TO INFORMATION BILL, 1997

(Bill No. 24 of 1997)

A

Bill

to make provision for securing Right to Information in the State of Goa and for matters relating thereto.

Whereas it is necessary that every Governmental action should be transparent to the public;

And Whereas to achieve this object, every citizen should be able to get information from the Government;

Be it enacted by the Legislative Assembly of Goa in the Forty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Right to Information Act, 1997.

(2) It shall come into force at once.

2. *Definitions.*— (a) "Competent authority" means any authority or officer notified by the Government for the purpose of this Act;

(b) "Government" means the Government of Goa;

(c) "Information" means any material or information relating to the affairs of the State or any local or other authorities constituted under any enactment passed by the Legislative Assembly of Goa for the time being in force or a Statutory Authority or a Company, Corporation, Trust, Firm, Society or a Co-operative Society, or any Organisation substantially funded or controlled by the Government or executing any public work or service on behalf of or as authorised by the Government;

(d) "Prescribed" means prescribed by rules framed under this Act;

(e) "Right to Information" means the right of access to information and includes the inspection of works, documents, records, taking notes and extracts and obtaining certified copies of documents or records, or taking samples of material.

3. *Right to Information.*— Subject to the provisions of this Act, every citizen shall have right to seek information from a competent authority.

4. *Procedure for supply of Information.*— (1) A person desiring information shall make an application to the Competent Authority in such form with such particulars, as may be prescribed:

Provided that where a person cannot, for valid reasons, make a request in writing, the Competent Authority may either accept an oral request which may subsequently be reduced in writing or render reasonable assistance to such person in making a written request.

(2) Upon receipt of an application requesting for an information, the Competent Authority shall consider it and pass orders thereon either granting or refusing the request, as soon as practicable and in any case, within thirty working days from the date of receipt of application.

5. *Restrictions on Right to Information.*— The Competent Authority may, for reasons recorded in writing, with-hold—

(a) Information, the disclosure or contents of which will prejudicially affect the sovereignty and integrity of India or security of the State or International relations or Public Order or administration of justice or Investigation of an offence or which leads to incitement to an offence;

(b) Information relating to an individual or other information, the disclosure of which has no relationship to any activity of the Government or which will not subserve any public interest and would constitute a clear and unwarranted invasion of personal privacy;

(c) Trade and commercial secrets or any other information protected by Law;

(d) Information whose release would constitute a breach of Parliament or Legislative Assembly Privilege;

(e) Information whose disclosure would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes or in public interest:

Provided that information which cannot be denied to the State Legislature shall not be denied to any person.

6. *Appeal.*— (1) Any person aggrieved by an Order of the Competent Authority, or any person who has not received any Order from the Competent Authority within thirty working days may appeal to the Administrative Tribunal constituted under the Goa Administrative Tribunal Act, 1965 (6 of 1965) subject to such rules as may be prescribed.

(2) The decision of the Administrative Tribunal shall be final.

(3) No order adversely affecting any person shall be passed except after giving that person a reasonable opportunity of being heard.

7. *Obligation on Competent Authority.*— Every Competent Authority shall be under a duty to maintain all its records, as per its operational requirements, duly catalogued and indexed in such manner as may be prescribed and grant access to information, subject to the provisions of this Act to any citizen requesting for such access.

8. *Penalties.*— (1) Any person responsible for providing any information under this Act shall be personally liable for furnishing the information within the period specified.

(2) Where a person responsible to supply information fails to furnish the information asked for under this Act within the time specified, he shall be liable, after such enquiry as may be necessary under the service rules applicable to him, for imposition of such penalty as may be determined by the disciplinary authority under such rules. In addition the disciplinary authority may order him to pay a fine of Rs 50/- for everyday of delay after the day by which the information is required to be supplied.

9. *Offences.*— (1) If any person responsible for furnishing information under this Act furnishes any information which is false in any material particulars and which he knows or has reasonable cause to believe to be false or does not believe it to be true, he shall be punishable with fine which shall not be less than Rs, 1000/- and which may extend to Rs. 5000/-.

(2) Where a person obtains information under this Act for mala-fide purposes or publishes in any manner information, which he has reason to believe to be false, shall be punishable with fine which shall not be less than Rupees ten thousands.

10. *Offences by Companies.*— (1) Where an offence under this Act has been committed by a Company, every person who, at the time the offence was committed, was in charge of, and was responsible, to the Company for the conduct of the business of the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this Section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any Director, Manager, Secretary or other Officer of the Company, such Director, Manager, Secretary or Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of this Section,—

(a) "Company" means any body corporate, and includes a firm or association of individuals and;

(b) "Director" in relation to a firm means and includes a partner of the firm.

11. *Offences to be Cognizable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) every offence under this Act shall be cognizable.

12. *State Council for Right to Information.*— (1) The Government may, by Notification in the Official Gazette, establish with effect from such day as specified in the Notification, a Council to be known as State Council for Right to Information.

(2) The State Council may consist of the following members—

(a) the Minister-in-Charge of the Department of Administrative Reforms in the Government who shall be its Chairman; and

(b) such other official and non-official members, not exceeding ten, representing such interests as may be prescribed;

(c) the time and place of the meeting of the Council shall be as the Chairman may decide and it shall observe such procedure as may be prescribed to transact its business.

(3) The object of the State Council shall be to promote right to information in the State and it shall deal with all matters related to right to information such as—

(a) review of the operation of the Act and rules made thereunder,

(b) review of the administrative arrangements and procedures to secure for citizens the fullest possible access to information,

(c) research and documentation as regards management of information with a view to improve the extent and accuracy of information being made available under the Act, and

(d) to advise the Government on all matters related to right to information, including training, development and orientation of employees to bring in a culture of openness and transparency.

13. *Act to have over-riding effect.*— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other enactment of the Legislative Assembly of Goa, for the time being in force.

14. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

15. *Power to make Rules.*— (1) The Government may make rules for carrying out the purposes of this Act.

(2) The rules made under this Act may provide for charging of reasonable fees, not exceeding rupees one thousand, for supply of information.

Statement of Objects and Reasons

For long there have been demands for greater openness and transparency in administration, which has gained momentum in the recent past. The courts too have, in a series of judgments, declared that the right to know is a facet of the fundamental right of speech enshrined in Article 19 (1) of the Constitution.

Today, there is wide acceptance that the Right to Information is indispensable for increasing and enforcing accountability. The right to know can help to strengthen democracy.

The Government is committed to have openness and transparency in its system. The Bill seeks to achieve this purpose.

It is proposed to constitute a State Level Council which will review the operation of the Act and the Administrative arrangements, from time to time, with a view to secure for a citizen the full possible access to information.

Financial Memorandum

As the provisions of the Bill would be implemented through the existing machinery there is no financial implication involved in the Bill.

Note on delegated legislation

The Bill in Clause 15 enables the Government to frame rules for giving effect to the provisions. It also enables to provide in the rules for charging of reasonable fees for the services rendered. The delegation is of normal character.

Panaji
Date : 10th July , 1997.

Assembly Hall,
Panaji,
Date: 10th July, 1997.

DOMNICK FERNANDES
Minister for Information

ASHOK B. ULMAN
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Assembly of Goa.